IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7690 OF 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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THE VEGETABLE VITAMINE FOOD COMPANY LTD. - Petitioner(s)

Versus

CHETAN KUMAR DHIRAJLAL GANDHI - Respondent(s)

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Appearance :

Shri K.K. Nanavati for M/s. Nanavati Associates for Petitioner(s).

Ms. Mita S. Panchal for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 12/07/2007

ORAL JUDGMENT

The petitioner-Establishment, being aggrieved by the award dated 29th December, 2000 passed by the learned Presiding Officer,

Labour Court, Navsari in Reference (LCN) No.2 of 1995 directing reinstatement of the respondent-workman with 50% back-wages with all consequential benefits, is before this Court.

2. The respondent-workman had gone to the learned Labour Court with a submission that the resignation, on which the Establishment relied upon, was under duress, coercion or undue pressure and under the circumstances, it could not be acted upon .

2.1 The present petitioner-Establishment appeared before the learned Labour Court and raised number of pleadings.

2.2 After giving due opportunity of hearing to the parties, the learned Labour Court held that the resignation was under undue pressure, coercion and duress, therefore, the same could not be made effective against the interest of the workman. It, accordingly, directed reinstatement of the respondent-workman with 50% back-wages and other consequential benefits.

3. Shri K. K. Nanavati, learned Counsel for the petitioner-Establishment, submitted that the workman had filed a criminal case against some of the employees of the Establishment and he made a statement before the Criminal Court that those employees had forged his

signature on the resignation. According to him, if that was the earlier statement of the workman that the signature was forged, then, the workman could not be allowed to change his stand and stance by making the submission that the resignation was the result of coercion, duress or undue pressure. He also submits that the learned Labour Court below was unjustified in not relying upon the earlier statement made by the workman, which remained unexplained.

4. Ms. Mita S. Panchal, learned Counsel for the respondent-workman, on the other hand, submits that the learned Court below was justified in making the award in favour of the workman.

5. The settled law is that an admission made by a party is the best evidence and the admission made by the party if is proved, then, it would bind the said party, but, the principle further says that if the admission is sought to be used and utilised against the person who had made it, then, such person is required to be confronted with the earlier admission. One cannot simply produce the admission before the Court and say that the said admission would bind the party and his statements on oath are to be ignored. A person, who changes his stand from the earlier admission, is required to be confronted with the earlier statement and is also required to be given an opportunity to explain his conduct. In a given case, if such an opportunity is given to the witness and he is

unable to explain his conduct, then, the Court may rely upon the earlier admission made by the party, but, in case where no opportunity to explain the conduct is given, then, the said admission cannot be used as a sword against the rights of such person.

6. In the present case, it is clear from the records that the workman was not confronted with his earlier statement and the statement was simply produced during the course of evidence like any other document. Under the circumstances, I must hold that the alleged admission would not bind the workman.

7. The learned Court below was justified in answering the reference in favour of the workman. The petition deserves to and is, accordingly, dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

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